



California Public Utilities Commission

# **Wildfire Safety Division Draft Wildfire Mitigation Plan Compliance Process**

**September 18, 2020**

**STAFF PROPOSAL FOR WORKSHOP AND PUBLIC COMMENT**



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## 1. BACKGROUND

Assembly Bill 1054 (Holden, Chapter 79, Statutes of 2019) establishes a set of requirements for the Wildfire Safety Division (WSD) to oversee compliance with utility Wildfire Mitigation Plans (WMPs) after they are approved. Further, AB 1054 requires the WSD to develop, and the California Public Utilities Commission (Commission) to adopt and approve a “wildfire mitigation plan compliance process” which includes “appropriate performance metrics and processes for determining an electrical corporation’s compliance with its approved wildfire mitigation plan.”

## 2. SUMMARY

Public Utilities Code § 8389 (d)(3) directs the Commission, after consultation with the WSD, by December 1, 2020, to “adopt and approve a wildfire mitigation plan compliance process”. This document presents the WSD’s proposal for a compliance process which consists of two components:

1. An annual assessment of each electrical corporation’s compliance with an approved WMP during the prior compliance period
2. Ongoing assessments to determine compliance throughout the compliance period based on WSD’s field inspections, paper audits, Independent Evaluator reports, and other regular reporting submissions as requested by the WSD

The proposed process will include ongoing compliance monitoring throughout the electrical corporation’s WMP compliance period, as well as an ex-post review of each electrical corporation’s most recently concluded compliance period, on a schedule to be determined by the WSD.

The WSD’s assessments of whether each electrical corporation is satisfactorily implementing its WMP will inform WSD determinations that may include recommending that the Commission pursue an enforcement action against the electrical corporation for noncompliance with its approved plan, pursuant to Public Utilities Code § 8389(g).

The proposed compliance process, as detailed in this document, will enable the WSD to fulfill its statutory obligation to oversee compliance with each electrical corporation’s plan.

### 3. PROPOSED COMPLIANCE PROCESS

#### Compliance Assessments

Under the proposed compliance process the WSD will undertake the following assessments<sup>1</sup>:

#### 1. Ongoing Compliance Assessment:

The WSD will evaluate electrical corporations' implementation of WMPs through field inspections, audits, Independent Evaluator reports, customer complaints and other regular reporting submissions as requested by the WSD. The WSD will verify actions committed to by electrical corporations in their currently approved plans.

The WSD will define defects that it will utilize to identify instances of noncompliance. The WSD's ongoing compliance assessment process will include building procedures to inspect WMP activities, identify defects, characterize severity of defects, track corrective actions and compile data submitted by electrical corporations. The WSD will submit reports to electrical corporations with its findings and will establish timelines for corrective action as listed below. The WSD is in the process of developing and assigning "defect codes" for multiple noncompliance situations of each WMP initiative and established metrics to track the defects.

Furthermore, electrical corporations are legislatively tasked with notifying the WSD when they have completed a substantial portion of vegetation management requirements in their approved WMPs, for WSD's audit and inspection. Electrical corporations shall timely correct defects of vegetation management identified by WSD staff during inspections, in accordance with the timelines listed in the Consequences of Compliance Assessments section of this document.

#### 2. Annual Compliance Assessment:

The WSD will conduct an annual assessment of each electrical corporation's compliance with its WMP through the following process:

- The WSD will establish compliance periods and deliverables to determine the electrical corporations' compliance with WMPs. Pursuant to Public Utilities Code § 8385(a)(1), a "compliance period" means a period of approximately one year and the WSD may establish staggered compliance periods for each electrical corporation. This document proposes that a compliance period begins at WMP approval date and concludes when the next plan or update is approved.
- Based on these compliance periods, each electrical corporation shall annually file a report addressing its compliance with WMPs over the prior compliance period within 90 days after the end of a compliance period.
- Independent evaluators shall submit reports on WMP compliance findings by July 1<sup>st</sup> of each year.
- The WSD will review these submissions in order to make a recommendation of whether each electrical corporation substantially complied with its WMP during the prior compliance period.

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<sup>1</sup> Following the transfer of WSD to the Office of Electrical Infrastructure Safety (OEIS), OEIS and the Commission may memorialize OEIS's commitment to undertake these assessments in a Memorandum of Understanding.

## **Consequences of Compliance Assessments:**

Based on the WSD’s ongoing or annual compliance assessments, the WSD may determine that an electrical corporation is not in substantial compliance with its WMP and may recommend that the Commission pursue an enforcement action against the electrical corporation for noncompliance with its approved plan, pursuant to Public Utilities Code § 8389(g). Through internal agreements and a division of responsibilities between the WSD and the Commission’s Safety and Enforcement Division (SED), a process has been outlined to determine consequences. Several factors are assessed to determine whether the WSD should directly issue a Notice of Defect to an electrical corporation, or if SED enforcement action is needed. The WSD’s ultimate outcome is to ensure that utilities are reducing wildfire risk through correction of defects.

### **1. Non-Compliance Resulting From Failure to Timely Correct Defects**

The WSD proposes to coordinate its efforts with the SED to achieve timely correction of defects identified in Notices of Defects during the WSD’s compliance assessments.<sup>2</sup> The WSD may also escalate the defect to a Notice of Noncompliance to order correction from the utility. Upon an electrical corporation’s failure to timely correct an alleged defect, the WSD may inform SED of noncompliance instance and SED may investigate the noncompliance.

Following the WSD’s recommendation to the Commission, and pursuant to the Commission’s enforcement authority, the Commission via SED may issue a citation or other enforcement action if an electrical corporation does not correct the identified defects on the prescribed timelines shown below.

Depending on the level of defect severity, the WSD proposes to require electrical corporations to correct defects within a prescribed deadline. The WSD has prioritized defect codes and proposes the following timelines will be required for correction of defects:

<b>Category</b>	<b>Correction</b>
Category 1 - Severe	Immediate resolution
Category 2 - Moderate	1-2 months (in HFTD Tier 3) 3-6 months (in HFTD Tier 2) 6 months (if relevant to worker safety) 12 months or scheduled in WMP update (other)
Category 3 - Minor	12 months or resolution schedule included in WMP update

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<sup>2</sup> WSD, after consultation with SED, may recommend amendments to the Commission’s adopted WMP compliance process.

## **2. Failure to Substantially Comply with WMP**

If the WSD determines that an electrical corporation fails to substantially comply with an approved WMP, the WSD may recommend to the Commission an enforcement action against an electrical corporation consistent with Public Utilities Code § 8389(g). The Commission may then assess penalties, including fines or equitable remedies, if it finds that an electrical corporation has failed to comply with its WMP, consistent with Public Utilities Code § 8386.1.

### **Ongoing use of Compliance Assessments to Inform WMPs:**

The WSD will utilize its assessments and seek to identify a dynamic approach to strategize the implementation of WMPs by incorporating risks and data collected in outcomes metrics. Such an approach will advise the WSD's future evaluations and therefore ensure electrical corporations' future WMPs prioritize efforts in ways that most effectively mitigate wildfire risk and will also allow the WSD to keep the public informed of the progress of WMP implementation.

Accordingly, this is a goal-oriented framework that will help the WSD ensure that the risk of wildfire is properly mitigated and reduced in accordance with Public Utilities Code §§8386 – 8389.

Two goals for the WSD include:

- The WSD will assess electrical corporations' implementation of the initiatives identified in the approved WMPs.
- The WSD will track outcomes of the reduction of wildfire risks and Public Safety Power Shutoffs (PSPS) events in order to determine the most effective strategy to mitigate areas with the highest-risk, and investigate areas not included in WMPs.

## 4. CONCLUSION

The WSD has developed a strategy and processes to perform its responsibilities. This document outlines the WSD's adaptive approach to identify most effective WMP initiatives for electrical corporations' timely implementation, and procedures to determine electrical corporations' compliance based on the implementation of the approved WMPs.

The WSD's proposal for a compliance process is still in progress and may be modified in response to comments. It may also be modified over time, as lessons are learned in the field and circumstances evolve. The goal of the WSD is to reduce wildfire risk and further minimize PSPS events by using available information such as weather data and past utility fire sites, and data collected during inspections to identify the most effective WMP initiatives, the locations and schedule for timely implementation. The WSD's proposed compliance process will do much to inform such forward-looking efforts.

By monitoring compliance with critical wildfire safety activities and measuring the reduction of wildfire risk, the WSD strives to implement its vision for a sustainable California, with no catastrophic utility-related wildfires, and access to safe, affordable and reliable electricity. By determining compliance based on the occurrence of clearly identified defects and an annual review process of overall compliance viewed in retrospect, the WSD aims to improve the safety of communities across California.